



U.S. Department of Justice

United States Trustee, Region 15
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October 10, 2006

**Notice of Interim Adjustment to the United States Trustee Chapter 13 Attorney Fee
Guidelines ("Guideline Fee")**

The Office of the United States Trustee ("UST") is continuing to evaluate the changes on the Chapter 13 practice brought about by the implementation of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA"). The UST is continuing to dialogue with practitioners, trustee and other interested parties to determine what are long term, systematic changes to the Chapter 13 practice resulting from BAPCPA, how they affect the determination of what is a reasonable Guideline Fee and what changes should be made on a long term basis.

However, as the UST continues to examine the matter, it has been determined that an interim adjustment to the Guideline Fee is in order. Accordingly, effective October 17, 2006, the Guideline Fee will be increased from \$2,100 to \$2,800 for Chapter 13 consumer cases and from \$2,500 to \$3,300 for business cases. All other aspects of the Fee Guideline would remain unaltered during this interim period.

This adjustment will be applicable for all cases filed after October 17, 2006. In addition, this adjustment will be applicable for cases filed between October 17, 2005 and October 17, 2006, if: such case has not been confirmed as of October 17, 2006; such adjustment is permitted under the terms of the retention agreement between the client and debtor; and such adjustment is not otherwise prohibited by law.

This interim adjustment will be in effect until further notice. All other provisions of the Fee Guideline, attached, remain unchanged.

Sincerely,

Steven J. Katzman,
United States Trustee

UNITED STATES TRUSTEE GUIDELINES SOUTHERN DISTRICT OF CALIFORNIA REGARDING CHAPTER 13 ATTORNEY FEES

The United States Trustee, pursuant to the duty to supervise the administration of chapter 13 cases, monitors Disclosures of Compensation Paid and Applications for Compensation. The United States Trustee generally will not require detailed applications in chapter 13 cases where the attorney complies with the Fee Schedule in Section I and meets the requirements set forth in Section II.

I. FEE SCHEDULE:

A. Initial Fees:

The United States Trustee's parameters for the "initial fees," to which the United States Trustee will not generally object, are set forth below.

I. Chapter 13 Consumer Cases

\$2,100

To earn the "initial fees" in a consumer case, an attorney shall:

- a. Meet with the debtor to review the debtor's assets, liabilities, income and expenses.
- b. Analyze the debtor's financial situation, and render advice to the debtor in determining whether to file a petition in bankruptcy.
- c. Counsel the debtor regarding the advisability of filing either a Chapter 7 or Chapter 13 case, discuss both procedures with the debtor, and answer the debtor's questions.
- d. Explain to the debtor how the attorney's fees and trustee's fees are paid.
- e. Explain what payments will be made directly by the debtor and what payments will be made through the debtor's chapter 13 plan, with particular attention to mortgage and vehicle loan payments, as well as any other claims with accrued interest.
- f. Explain to the debtor how, when, and where to make the chapter 13 plan payments.
- g. Explain to the debtor that the first plan payment must be made to the Trustee within 30 days of the date the plan is filed.
- h. Advise the debtor of the requirement to attend the § 341(a) Meeting of Creditors, and instruct the debtor as to the date, time and place of the meeting.
- i. Advise the debtor of the necessity of maintaining liability, collision and comprehensive insurance on vehicles securing loans or leases.
- j. Timely prepare, file and serve the debtor's petition, plan, schedules, statement of financial affairs, and any necessary amendments thereto, which may be required.
- k. Provide an executed copy of the United States Trustee, Southern District of California, Rights and Responsibilities of Chapter 13 Debtors and their Attorneys and a copy of the United States Trustee Guidelines, Southern District of California, regarding Chapter 13 Attorney Fees to the debtor.
- l. Appear and represent the debtor at the § 341(a) Meeting of Creditors, the confirmation hearing, and any adjourned hearing thereof.
- m. Respond to the objections to plan confirmation, and where necessary, prepare, file and serve an amended plan.

- n. Provide such other legal services as are necessary for the administration of the case before the Bankruptcy Court, which include, but are not limited to, a continuing obligation to assist the debtor by returning telephone calls, answering questions and reviewing and sending correspondence.

2. Chapter 13 Business Cases

\$2,500

To earn the "initial fees" in a business case, an attorney shall:

- a. Provide all of the services as described above for consumer cases.
- b. Prepare a Questionnaire for Chapter 13 Business Owners.
- c. Provide documents and information requested by the Chapter 13 Trustee and the Court, including, but not limited to, an itemized list of all business assets and a profit and loss statement for each of the three months prior to the filing.
- d. Attend on-site inspections of business at the Chapter 13 Trustee's request.
- e. Assist the Debtor in performing duties pursuant to 11 U.S.C. § 1304.

B. Additional Fees

- 1. Additional services may be required, but are not included within the United States Trustee's parameters for the "initial fees". If necessary and when appropriate, the attorney, at the debtor's request and only with the debtor's cooperation, shall provide the following services for "additional fees":
 - a. Prepare, file and serve necessary modifications to the plan post-confirmation, which may include suspending, lowering or increasing plan payments.
 - b. Prepare, file and serve necessary motions to buy, sell or refinance real property and authorize use of cash collateral or assume executory contracts or unexpired leases.
 - c. Object to improper or invalid claims.
 - d. Represent the debtor in motions for relief from stay.
 - e. Prepare, file and serve necessary motions to avoid liens on real or personal property.
 - f. Prepare, file and serve necessary oppositions to motions for dismissal of case.
 - g. Provide such other legal services as are necessary for the administration of the case before the Bankruptcy Court, which include but are not limited to, presenting appropriate legal pleadings and making appropriate court appearances.
- 2. Should additional services be provided and "additional fees" requested, the attorney shall:
 - a. Provide proper notice in accordance with Federal Rule of Bankruptcy Procedure 2002.
 - b. Advise the debtor of all "additional fees" requested and file a declaration with the court stating that counsel has so advised the debtor of the fees requested and the debtor has no objection to the requested fees.
- 3. The United States Trustee's parameters for "additional fees," including all court appearances required to pursue described actions to which the United States Trustee will not generally object, are:

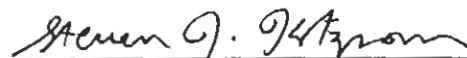
- a. **Modified Plan (Post-Confirmation)** **\$550**
- for fees and expenses for services rendered post-confirmation for preparing, filing, noticing, and attending hearings in regard to a debtor's modified plan under section 1329 of the Bankruptcy Code (including the preparation of amended income and expenses statements and providing proof of income). (These fees should be less for modification due to clerical error or other administrative issues.)
- b. **Opposition to Motions for Relief from Stay**
- \$400 (Personal property)** for fees and expenses of all
\$450 (Real property) services rendered in opposition to motions to modify or vacate the automatic stay.
- c. **Obtaining Orders re: Sale or Refinance of Real Property**
- \$375 (By stipulation)** for fees and expenses of all
\$400 (By noticed hearing) services rendered for rendered for obtaining an order authorizing the sale or refinancing of real estate.
- d. **Objections to Claim**
- \$200 (Uncontested objections without hearing)** for fees and expenses of all services rendered for preparing, filing, and noticing objections
\$300(Contested objections with a hearing) to a claim. (Fees shall not exceed 50% of the amount the trustee would have otherwise paid)
- e. **Oppositions to Dismissal/Motions to Avoid Lien/Other Routine Pleadings** **\$375**
- for fees and expenses of all services rendered for preparing, filing, noticing, and attending hearings in opposition to a motion to dismiss the case, for motions to avoid lien and other routine pleadings.
- f. **Novel and Complex Motions and Oppositions to Motions**
- These types of motions and oppositions may be billed at hourly rates and counsel shall file a fee application in compliance with Rules of 2002 and 2016 of the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rules 2002 and 2016.

These amounts should not be considered as recommendations by the United States Trustee as to the reasonableness of an attorney fee in a given case.

II. **OTHER REQUIREMENTS:**

- A. Counsel shall file with the Court and serve on the Chapter 13 Trustee an executed copy of the "Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys" within 15 days after the order for relief or within 15 days of retention. (These forms are available in the Offices of the Chapter 13 Trustees and the United States Trustee for the Southern District of California.)
- B. Counsel shall ensure that there is a properly executed 2016(b) Statement filed with the Court and served on the Chapter 13 Trustee and the United States Trustee for the Southern District of California.^{1/} In all cases where counsel seeks "initial fees" pursuant to the United States Trustee's Guidelines regarding Chapter 13 Attorney Fees, counsel shall include in the 2016(b) Statement all the services described in the Rights and Responsibilities of Chapter 13 Debtors and their Attorney.
- C. Counsel shall keep time records. Time entries should be kept contemporaneously with the services rendered in time periods of tenths of an hour for each case in the event there is an examination of fees for any reason. Should counsel fail to have accurate and contemporaneous time records, fees may be subject to objection in their entirety.
- D. If counsel elects not to seek fees pursuant to this Guideline, counsel shall file a fee application in compliance with Rules 2002 and 2016 of the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rules 2002 and 2016.
- E. The Notice for the Section § 341(a) Meeting of Creditors shall provide notice pursuant to Federal Rule of Bankruptcy Procedure 2002 of the "initial fees" requested.

Effective Date: October 1, 2004



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^{1/}Every attorney for a debtor, whether or not the attorney applies for compensation, shall file and transmit to the United States Trustee within 15 days after the order for relief, or at another time as the court may direct, the statement required by § 329 of the Code... A supplemental statement shall be filed and transmitted to the United States Trustee within 15 days after any payment or agreement not previously disclosed. Federal Rule of Bankruptcy Procedure 2016(a)